



Contract Basics

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Course Objectives

WHAT

- What comprises the contract
- How to use the contract

WHY

- Inspect & administer properly
- Answer questions thoroughly and correctly



Course Agenda

1. Contract Package Components
 - Amendments
 - Notice to Offerors
 - Solicitation, Offer, and Award
 - Bid Schedule
 - Contract Clauses
 - Minimum Wage Schedule
 - Specifications (FP & SCRs)
 - Specification Structure
 - SCR/FP relationship
 - Plans
2. Resolving Conflict
3. Handling Changes



Amendments

- Issued during the advertisement phase
- Changes something in the solicitation
- Summarized at front of contract
- Noted with a vertical bar and footnote within contract
- Are incorporated into Contract



Notice to Bidders

- Summarizes highlights of the Solicitation
- Not part of Contract



Solicitation, Offer, and Award



Solicitation, Offer, and Award

- Solicitation (Invitation for Bids)
 - package that contractors bid on
 - See SF 1442
 - Prescribes bidding requirements
 - Provides contract requirements
 - Becomes the “CONTRACT” upon award



Solicitation, Offer, and Award *the Process*

- Contractor receives the **SOLICITATION**
- They review it and prepare bid
- Submit bid to WFLHD (this is the **OFFER**)
- We open the bid
- Review and confirm the bid
- We **AWARD** the contract



Bid Schedule

- Lists all contract pay items
- Where contractor's provide their bid prices
- Total bid price at the end



Federal Acquisition Regulations – FAR

- Primary regulation for Federal agencies
- Applies to acquisition of services and supplies
- Provides uniformity to govt's business



FAR - Solicitation Provisions

- “B” pages
- Provide information for bidding
- Are in effect until the time of award
 - Then clauses take over
- Minimally used during construction



FAR - Contract Clauses

- “C” pages
- Integrally tied to contract performance
- Also provides ‘rules’ for handling the unexpected



FAR

- 53 parts
 - First 51 . . . Subject matter
 - Part 52 – clauses and provisions



FAR Provision or Clause Numbering

- 52.222-6, Davis Bacon Act

- 52.222-6

- All provisions or clauses have this
 - Part (52) and Subpart (52.2) of the FAR

- 52.222-6

- Section (keyed to subject matter)
 - Clause is prescribed in Part 22 of the FAR
 - Part 22 of the FAR is Labor Laws

- 52.222-6

- Sequential number within 52.222
 - Sixth clause in that subpart



FAR – Contract Clauses the most referred to ones

- Part 11 – Describing Agency Needs
 - 52.211-10, Commencement, Prosecution, and Completion of Work
 - Notice to Proceed date
 - Fixed Completion Date
- Part 22 – Labor Laws
 - Davis-Bacon
 - Must pay OT for over 40 hours
 - Certified payroll
- Part 32 – Contract Financing
 - 52.232-5, Payments Under Fixed-Price Construction Contracts
 - 52.232-27, Prompt Payment for Construction Contracts



FAR – Contract Clauses the most referred to ones

- Part 36 – Construction and A&E Contracts
 - **52.236-2, Differing Site Conditions**
 - 52.236-4, Physical Data
- Part 42 – Contract Administration and Audit Services
 - 52.242-14, Suspension of Work



FAR – Contract Clauses the most referred to ones

- Part 43 – Contract Modifications
 - 52.243-4, Changes
- Part 49 – Termination of Contracts
 - 52.249-10, Default



The Customer Asks

What is the end date for this project?

- FAR Clause 52.211-10
- October 31, 2006



The Project Engineer Asks

What type of existing pavement structure can be expected on this project?

- What documents would tell you this?
 - Geotechnical Reports
- How do you know which ones to obtain?
 - FAR Clause 52.236-4, Physical Data
- Which ones for this project?
 - No. 22-04, No. 21-04



Minimum Wage Schedule

- Shows minimum rates for your project
- Use to check payrolls
- Use to prepare government estimates for contract modifications



Plans

- Show
 - where to do work
 - Dimensions
 - Some specifications



Plans - Title Sheet

- Project location
- Project limits
- Project name and number
- Index to sheets
- Design Data



Plans - Summary of Quantities

- Shows all bid items
- Consistent with bid schedule
- Indicates where items can be found
- Denotes contract quantity items



Plans - Typical Sections

- Roadway template
- Slopes
- Limits of seeding & clearing



Plans - Plan & Profile Sheets

- Plan view of proposed roadway
- Existing alignment & features
- Profile view of proposed roadway
- Horizontal & vertical curve data
- Culverts, walls, signs, misc notes
- A lot of other information
- Summary of earthwork quantities



Plans - Detail Sheets

- Bridges, Approaches, Drainage, etc., etc.



Plans - Standard Drawings

Provide info common to all projects



Specifications FP & SCRs



Specification Structure - overall

- 100 – General Requirements
- 150 – Project Requirements
- 200 – 600 Project Item Work
- 700 – Materials used in the Work



Specification Structure - each section

- Description
 - What work is included in the section
 - Sometimes includes definitions
- Material
 - Where to go for material specifications



Specification Structure - each section

- Construction Requirements
 - What to do
 - Sometimes how to do it
 - How the work will be accepted
 - Visual
 - Certification
 - Measured and tested
 - Statistical evaluation



Specification Structure - each section

- Measurement
 - Refers to 109.02 as default
 - Provides specific details for some units of measure
 - If not mentioned, no payment
- Payment
 - Refers to bid schedule



Specification Structure - Review

- Overall structure
 - Sections 100, 150, 200 – 600, 700
- Structure of each section
 - Description
 - Material
 - Construction Requirements
 - Measurement
 - Payment





Special Contract Requirements

- Must be read in conjunction with FP
- Modify the FP (standard specifications)
- SCRs are generally:
 - Tailored to WFL projects
and/or
 - Tailored to the specific project
- Directions tell you what to add, delete, etc.



The Contractor Asks

Will I be charged liquidated damages after substantial completion?

- Subsection 108.04
- FP says 20%, but SCR's modify that
- See third paragraph of SCR 108.04
- “liquidated damages . . will be assessed . . until substantial completion”



The Contractor Asks

What is the spec for minor crushed aggregate?

- Subsection 308.02
- FP says 703.06
- See SCRs
- “ material salvaged from asphalt pavement milling may be used . . . ”



Special Contract Requirements - Review

- Must be read with the FP
- Project or WFL specific





Permits

- Part of the contract
- Very, very, very, important
- Do the right thing
- Avoid violations
- Violations = long-lasting effects



Permits

- What if permit requirements aren't incorporated into the Plans or SCRS?
 - The permit requirements still apply
- What if the Plans or SCRs conflict with the permits?
 - Coordinate with Environmental Specialist
 - Permits probably govern
- Permits are the trump card



The Contract - Review

- Solicitation, Offer & Award
- Bid Schedule
- Contract Clauses
- Minimum Wage Schedule
- FP & SCRs (includes Permits)
- Plans





Resolving Conflict - Order of Precedence

- See FP, Subsection 104.04
- Federal Acquisition Regulations
- Transportation Acquisition Regulations
- Special Contract Requirements
- Plans
- Standard Specifications



Resolving Conflict

What if . . .

The PLANS state,

- “Edge drop-offs (between adjacent traffic lanes) in milled areas may not exceed 3 inches.”

The SCRs state:

- “Complete milling of adjacent traffic lanes to the same elevation each day of operation.”



Resolving Conflict - Review

use order of precedence in 104.04



When Things Don't Go As Planned

- The customer wants a change?
- Contractor hit rock and didn't think they would?
- You have to shutdown because of forest fires?



When Things Don't Go As Planned

Three Most Commonly Used Clauses

- Changes 52.243-4
- Differing Site Conditions 52.236-2
- Default 52.249-10



When Things Don't Go As Planned

If you're in this situation . . .

- Consult with your Project Engineer or COE
- Talk to the Claims Engineer
- Talk to Legal Counsel
- Talk to the Project Engineer first!!!
- **More to the clauses than meets the eye!!**



When Things Don't Go As Planned

Changes Clause - FAR 52.243-4

- Allows 'within scope' changes
- Handle via a CM



When Things Don't Go As Planned

Differing Site Conditions Clause

FAR 52.236-2

- Takes some of the risk off the contractor
- No contingency needed in the bid
- Handle via a CM



When Things Don't Go As Planned

Default Clause – FAR 52.249-10

- Excusable delays
- Only allows for time
- NO \$\$\$\$\$\$\$\$\$\$
- Common situations:
 - Unusually severe weather
 - Supported with 108.05
 - Fire
- Handle via a CM



When Things Don't Go As Planned

What if . . .

The Materials Engineer says that the pavement depth for 169+00 to 177+50 should be 3 inches?

Which clause allows the modification?

- FAR Clause 52.243-4, Changes
 - How does the govt make the change?
- Contract modification



When Things Don't Go As Planned

What if . . .

The Contractor could not work between May 1 and June 15 because of major flooding in the Columbia River Basin?

What clause deals with this?

- Default, 52.249-10
 - What is the contractor entitled to?
 - Time
 - No money



When Things Don't Go As Planned

What if . . .

The contractor hit solid rock when excavating for the MSE Walls? They say they expected silty, loamy material.

What clause deals with this?

- 52.236-2, Differing Site Conditions

What documents should you research?

- Geotech reports



When Things Don't Go As Planned

Contract Modifications

- See the Construction Manual, Chapter 3 for all the steps
- Get all the CM experience that you can



Summary

- What comprises the contract
- Difference between provisions and clauses
- Clause numbering
- Most popular clauses
- Minimum wage schedule



Summary

- Specification layout
- Permits
- Order of precedence
- Changes, Default, Differing Site Conditions
Clauses



Contract Basics

